REMARKS

Applicants acknowledge receipt of the Examiner's Office Action dated December 26, 2007. Claims 1, 4, 11-12, 19-20, 23-24, and 27-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Aronberg et al., U.S. Patent No. 5,933,647 (Aronberg). Claims 1, 4, 8-12, 14-16, 18-20, 22-24, and 26-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sadowsky, U.S. Patent No. 5,790,796 (Sadowsky). Claims 5, 13, 17, 21, and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sadowsky as applied to claims 1, 4, 11-12, 15, 19, and 23 above, and further in view of Meizlik et al., U.S. Patent No. 6,112,323 (Meizlik). Claim 7 was rejected under 35 U.S.C. § 102(a) as being unpatentable over Sadowsky as applied to claim 1 above, and further in view of Foster, U.S. Patent No. 6,986,134 (Foster). Claim 6, was rejected under 35 U.S.C. 103(a) as being unpatentable over Sadowsky as applied to claim 1 above, and further in view of Hansen, U.S. Patent No. 5,838,907 (Hansen). Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sadowsky as applied to claim 1 above, and further in view of Ma et al., U.S. Patent No. 5,920,725 (Ma). Claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Sadowsky as applied to claim 1 above, and further in view of Ma and in further view of Canter et al., U.S. Publication No. 2004/0003390 (Canter). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

Each of the independent claims stands rejected as being anticipated by Aronberg or Sadowsky. Applicants respectfully traverse these rejections. To illustrate applicant's

arguement, independent Claim 1 recites, "transmitting an index file to the requesting instance, wherein the index file comprises a criterion for identifying a set of instances of the plurality of instances to receive a first data and a location of the first data." The Office Action asserts that these limitations can be found in paragraph 4, lines 28-61 of Aronberg. Applicants disagree. This cited section of Aronberg teaches the transmission of a profile to agents on workstations. Each agent detects a newly scheduled application, and evaluates the condition for distribution to see if the distribution to it is appropriate. If the distribution is appropriate for a particular agent, that agent pulls down the distribution. If the distribution is not appropriate for a particular agent, then that agent does not pull down the distribution.

Applicants previously argued that the profile of Aronberg does not include a location of the "distribution" to be pulled down. The Office Action argued this limitation is inherent within the cited section of Aronberg. Specifically, the Office Action argues the profile must inherently have the location of the distribution, or else it would be impossible for the agent to know where to pull the distribution from. Applicants disagree. One of ordinary skill in the art would understand that the agent could access the same predetermined location in memory that stores a location of the distribution to be pulled down, and that this memory location may be separate and apart from a memory location that stores the profile received from the file server. In other words, the memory location that stores the location of the distribution, may be static, while that memory location of the distribution may change over time. At any rate, Applicants believe that one of ordinary skill in the art would not conclude that the profile must inherently have the location of the distribution.

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The dependent claims were also rejected as being anticipated by the Abstract of Sadowsky. Lines 12-17 of the Abstract describe a server that provides a master object to a client. This master object includes fields that indicate package files that are available for transfer to the client. One such field is a distributed install file that includes, in a text format, instructions for instantiating the selected package file. Upon receipt, either the user or the client selects the package file. The client provides a request to the server for the selected file, which the server provides to the client. In response to the Non-Final Office Action, Applicants argued that the Abstract of Sadowsky did not teach or fairly suggest transmitting "a criterion for identifying a set of instances of the plurality of instances to receive first data." The Final Office Action argues that Sadowsky does teach at least one criterion, citing column 5, lines 33-54. This cited section of Sadowsky teaches an auto mode program 212 that automatically selects package files 204 from the master object 206 in accordance with a predetermined selection criteria. Neither column 5, lines 33-54 nor the Abstract of Sadowsky teaches that the "predetermined selection criterion" is contained within master object transmitted to the client. As such, Applicants assert that independent Claim 1, as amended, is patentably distinguishable over the cited sections of Sadowsky.

The remaining independent claims contain limitations that are identical or similar to the limitations of independent Claim 1 argued above. Insofar as independent Claim 1 has been shown to be patentably distinguishable over the cited sections of Aronberg and Sadowsky, it follows that the remaining independent claims are likewise patentably distinguishable. All dependent claims are patentably distinguishable by virtue of their dependence from the independent claims.

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CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5093.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

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